
(2015) 08 TP CK 0029
In the Tripura High Court
Case No : Bail Appln. No. 57 of 2015

Arnab Chakraborty

APPELLANT

Vs

The State of Tripura

RESPONDENT

Date of Decision : 07-08-2015

Acts Referred:

Penal Code, 1860 (IPC) — Section 120(B), 403, 409, 420, 468

Citation : (2015) 08 TP CK 0029

Hon'ble Judges : Deepak Gupta, C.J

Bench : Single Bench

Advocate : P.K. Biswas, Senior Advocate and P. Majumder, for the Appellant;
R.C. Debnath, APP, Advocates for the Respondent

Final Decision : Disposed off

Judgement

Deepak Gupta, C.J—This application for grant of bail has been filed by Sri Arnab Chakraborty in respect of Special Case (P.C Act) No. 03 of 2014 arising out of West Agartala Police Station Case No. 156 of 2014 under Section 120(B)/403/409/420/468/471/477(A) of IPC.

2. It will be pertinent to mention that there are number of cases registered against the accused-petitioner, Arnab Chakraborty. As far as the present case is concerned this is a case in which he is an accused along with his wife, Sanghita Chakraborty and mother, Kajal Rani Chakraborty. Investigation is also going on against the Binoy Das and one Sri Rajib Das Gupta who has been declared to be an absconder. In this case it is alleged that the accused-petitioner has misappropriated Rs. 11.72 lakhs by forging the signatures of various officials. Another case being West Agartala P.S Case No. 180 of 2014 has been registered against the petitioner and 5/6 other persons in which the misappropriated amount is stated to be Rs. 38.49 lakhs. There is still another case being West Agartala P.S Case No. 60 of 2015 in which the misappropriated amount is stated to be Rs. 3.19 crores. Another case has been registered against the petitioner on 27.05.2015 for having disproportionate assets.

3. At the outset it is made clear that this order is only in respect of West Agartala Police Station Case No. 156 of 2014 out of which charge sheet No. 107 of 2014 dated 21.11.2014 has been filed against the accused-petitioner and it is alleged that he has been misappropriated Rs. 11.72 lakhs.

4. The accused-petitioner has been behind bars for 290 (two hundred ninety) days. Earlier, I had rejected the bail application of the accused-petitioner but at that time I was given the impression that there is only one case and the total embezzlement is more than three crores. Now, it has turned out that there are three cases of embezzlement and one case is of disproportionate assets.

5. As far as the present case is concerned, it is only relating to embezzlement of Rs. 11.72 lakhs and the investigation is virtually complete. The Apex Court in *Sanjay Chandra Vs. CBI*, AIR 2012 SC 830 : (2012) CriLJ 702 : (2011) 4 RCR(Criminal) 898 : (2011) 13 SCALE 107 : (2012) 1 SCC 40 : (2011) 6 UJ 4077 has held as follows:--

"14. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it can be required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some un-convicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, "necessity" is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances. Apart from the question of prevention being the object of a refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any Court to refuse bail as a mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an un-convicted person for the purpose of giving him a taste of imprisonment as a lesson.

15. In the instant case, as we have already noticed that the "pointing finger of accusation" against the appellants is "the seriousness of the charge". The offences alleged are economic offences which has resulted in loss to the State Exchequer. Though, they contend that there is possibility of the appellants tampering witnesses, they have not placed any material in support of the allegation. In our view, seriousness of the charge is, no doubt, one of the

relevant considerations while considering bail applications but that is not the only test or the factor : The other factor that also requires to be taken note of is the punishment that could be imposed after trial and conviction, both under the Indian Penal Code and Prevention of Corruption Act. Otherwise, if the former is the only test, we would not be balancing the Constitutional Rights but rather "recalibration of the scales of justice." The provisions of Cr.P.C. confer discretionary jurisdiction on Criminal Courts to grant bail to accused pending trial or in appeal against convictions, since the jurisdiction is discretionary, it has to be exercised with great care and caution by balancing valuable right of liberty of an individual and the interest of the society in general. In our view, the reasoning adopted by the learned District Judge, which is affirmed by the High Court, in our opinion, a denial of the whole basis of our system of law and normal rule of bail system. It transcends respect for the requirement that a man shall be considered innocent until he is found guilty. If such power is recognized, then it may lead to chaotic situation and would jeopardize the personal liberty of an individual."

6. In view of the law laid down by the Apex Court and in view of the fact that the defalcated amount in this case is only related to Rs. 11.72 lakhs and since the investigation is complete, I direct that the accused person namely, Sri Arnab Chakraborty be released on bail only in connection with West Agartala Police Station Case No. 156 of 2014 under Section 120(B)/403/409/420/468/471/477(A) of IPC on his furnishing bail bond in the sum of Rs. 1,00,000/- (rupees one lakh) with two sureties in the like amount to the satisfaction of the Chief Judicial Magistrate, West Tripura, Agartala undertaking therein:--

"(i) That, the accused person is directed not to tamper with or in any manner influence the prosecution witnesses;

(ii) That, the accused shall ensure that no threat directly or indirectly is given to any of the prosecution witnesses;

(iii) The accused is further directed not to cause any hindrance in the investigation;

(iv) The accused shall not leave Tripura without permission of the appropriate Court;

(v) The accused person shall appear before the trial Court on each and every date of hearing. In case, he absent himself on any date, then the trial Court shall cancel the bail and the accused shall be arrested. Thereafter, the said person shall have to approach this Court for grant of bail;

(vi) In case, the accused person violates any of the conditions or tries to delay the trial the prosecution shall be at liberty to approach this Court for cancellation of bail."

7. It is again reiterated that this bail order is only in respect of West Agartala

Police Station Case No. 156 of 2014 under Section 120(B)/403/409/420/468/471/477(A) and in case the accused-petitioner has been arrested in relation to any other FIRs/Police Cases, he will have to file separate application(s) with regard to other case(s).

8. With these observations, the bail application is disposed of.